

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/555,321	Applicant(s) AOKI ET AL.	
	Examiner M'BAYE DIAO	Art Unit 2838	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1 and 3-23.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 See continuation sheet below..
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Akm Enayet Ullah/
 Supervisory Patent Examiner, Art Unit 2838

/M'baye Diao/
 Examiner, Art Unit 2838

Regarding claims 1, and 11, applicant argues that there is no suggestion or motivation to make the modifications of moving recesses (16) from the sides of structure (1) to a "front surface".

Examiner respectfully disagrees and submits that placing the side terminal of the battery on the front of the case and connected to the charging unit, since such modification involves only rearranging of the parts, in re Japikse, 86 USPQ 70. Moreover, a motivation or suggestion is not always needed when the prior art device is substantially of the same shape as that of the claimed invention, since such a modification would have involved a mere change in the shape of the case. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Applicant further argues that the charging circuit as taught by Tohya never charges or discharges.

Examiner respectfully disagrees and submits that power supply casing (3) contains charging circuit parts (not shown) including a stepdown transformer and a rectifier) (thus provided charging current and therefore discharges). Furthermore, a power supply plug (32) is inserted into a socket of a power source and protrudes from a surface (31) of the power supply casing (3) to supply power to these charging circuit parts, and thus charges.

Miyazaki et al., (US PAT 5,726,551) discloses (abstract; col. 1, lines 40+) a battery charging device which comprises: a plurality of battery groups electrically connected to each other; a plurality of battery charging units which charge the respective battery groups; and an electric load which is driven by energy from the battery groups. Each of the battery charging units is provided with a charge controlling unit designed to perform a rest mode operating function (which causes a pause in the charging of the corresponding battery group) and a discharge mode operating function (which causes discharge of electric power from the corresponding battery group), as well as a charge mode operating function to control charging of the corresponding battery group, repeating at least two modes, including the charging mode (as among the charging mode, rest mode and discharge mode) in a predetermined time cycle. Miyazaki is another evidence that a charging circuit that charges and discharges is well known in the art